IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

Bail Appl..No. 7231 of 2007()

(CRIME NO.373/07 OF NADAKKAVU POLICE STATION)

PETITIONER:

N.K.RAJAN, AGED 45 YEARS,
S/O.P.P.KANNAN NAIR, PRASAD NIVAS,
MANGALAM P.O., OTTAPPALAM, PALAKKAD DISTRICT.

BY ADV. SRI.NIRMAL. S

RESPONDENT:

STATE OF KERALA, REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM
REPRESENTING SUB INSPECTOR OF POLICE,
NADAKKAVU POLICE STATION.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27/11/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R. BASANT, J.

B.A. No. 7231 OF 2007

Dated this the 27th day of November, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under section 353 and 294(b) IPC. The crux of the allegations is that on 3.11.07 at the Eranhipalam traffic junction at Calicut, there was an incident of collision between two bikes. The petitioner was the rider in one of those bikes. There was exchange of words between the riders. The traffic constable on duty tried to intervene. It is alleged that the petitioner had showered obscene abuses with the said traffic constable and had thus interfered with the performance of his official duty. A crime was registered. Investigation is pending. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The petitioner was not responsible for the accident at all. The police constable had intervened and had acted detrimental to the interests of the petitioner. The petitioner had raised objections against such conduct of the police official. There is no elements of the offence under section 353 IPC at all. The petitioner had only raised

objections to the partisan and unfair conduct of the police official. There is no necessity to insist on arrest and incarceration of the petitioner. The petitioner shall co-operate with the investigators. Subject to appropriate conditions, directions under section 438 Cr.P.C. may be issued in favour of the petitioner, it is prayed.

3. The learned Public Prosecutor confirms that there is no injury whatsoever or hurt suffered by the victim. There is of course allegations of obscene words was showered on the police official and that he was caught on his shirt. The learned Public Prosecutor does not oppose the prayer for anticipatory bail and I am satisfied that the petitioner can be granted anticipatory bail subject to appropriate terms and conditions.

4. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioner.

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 4.12.07. He shall be released on regular bail on condition that he executes a bond for Rs.25,000/-(Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned

Magistrate.

ii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 3 p.m on 5.12.07 and 6.12.07 and thereafter on all Mondays and Fridays between 10 a.m and 12 noon for a period of one month and subsequently as and when directed by the investigating officer in writing to do so.

(iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law, as if these directions were not issued at all.

(iv) If he were arrested prior to 4.12.07, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 4.12.07.

(R.BASANT, JUDGE)

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